

Attorneys for Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market

3. The filing of this Petition for Removal is timely because it is filed within thirty days of the date Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market first received

4. The plaintiff's Complaint in the Superior Court of New Jersey, Law Division, Bergen County, asserts damages of a non-specified amount. Plaintiff alleges in the Complaint that defendant allowed a dangerous condition to exist, namely an employee pushing a trolley with boxes, which in turn struck the plaintiff causing her to fall and sustain severe and permanent injuries. As such, Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market believes that the amount in controversy exceeds \$75,000, exclusive of interest and costs.

5. Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market is informed and believes that Plaintiff, Ana Brea, is an individual citizen of the State of New Jersey. Defendant/petitioner, Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market is incorporated in the State of Delaware and its principal place of business is in the State of Texas. The action is therefore between citizens and a corporation of other states.

6. Accordingly, this action is removable to this Court pursuant to 28 U.S.C. § 1441.

WHEREFORE, Petitioner, Defendants, Whole Foods Market Group, Inc. i/p/a Whole Foods Market in the action described herein, which is currently pending in the Superior Court of the State of New Jersey, Law Division, Bergen County, Docket No. L-1373-22, prays that this action be removed therefrom to this Court.

DATED: March 15, 2022

Defendants, Whole Foods Market Group, Inc.  
i/p/a Whole Foods Market

BY: \_\_\_\_\_

Christopher E. McIntyre, Esq.

I certify that a true copy of the Complaint filed in the Superior Court of the State of New Jersey, County of Bergen, along with a copy of the Summons issued to this defendant, is annexed hereto as Exhibit A.

BY: \_\_\_\_\_

Christopher E. McIntyre, Esq.

## **EXHIBIT A**

**PETER N. DAVIS & ASSOCIATES**

Nicholas Barone, Esq.

Attorney ID No.: 008721984

100 Hamilton Plaza, Suite 420

Paterson, New Jersey 07505

(973) 279-7246

Attorneys for Plaintiffs, Ana Brea & Jorge Ricardo

Our File No.: 207525

ANA BREA AND JORGE RICARDO,

*Plaintiff,*

vs.

*Defendants,*

WHOLE FOODS MARKET, JOHN  
DOE, JOHN DOES 2-10, ABC INC. 1-10  
AND XYZ CO. 1-10.

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY

DOCKET NO. BER-L-

*Civil Action*

**COMPLAINT, JURY DEMAND,  
DESIGNATION OF TRIAL COUNSEL  
and CERTIFICATION PURSUANT TO  
R. 4:5-1**

The Plaintiffs, Ana Brea and Jorge Ricardo, residing at 300 Avalon Drive, in the Borough of Wood-Ridge, County of Bergen, and State of New Jersey, by way of Complaint against the Defendants, say:

**FIRST COUNT**

1. On or about October 4, 2020, the Plaintiff, Ana, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, State of New Jersey.
2. On or about the same time and place, the Defendant, Whole Foods Market, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, State of New Jersey.
3. On or about the same time and place, the Defendant, Whole Foods Market, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of

care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, which in turn struck the Plaintiff, causing her to fall.

4. As a direct and proximate result of the negligence of the Defendant, Whole Foods Market as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

**WHEREFORE**, the Plaintiff, Ana Brea, demands judgment for damages against Defendant, Whole Foods Market, together with interest, costs of suit and attorney's fees.

### **SECOND COUNT**

1. The Plaintiff, Ana Brea, repeats each and every allegation of the First Count as if set forth at length herein.

2. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, John Doe, negligently and carelessly pushed a trolley with boxes on the same, which in turn struck the Plaintiff, causing her to fall.

4. As a direct and proximate result of the negligence of the Defendant, John Doe, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

**WHEREFORE**, the Plaintiff, Ana Brea, demands judgment for damages against the Defendant, John Doe, together with interest, cost of suit and attorney's fees.

**THIRD COUNT**

1. Plaintiff, Ana Brea, repeats each and every allegation of the First and Second Counts of the Complaint as if set forth at length herein.

2. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, John Doe, was the agent, servant, and/or employee of the Defendant, Whole Foods Market.

4. As a direct and proximate result of the negligence of the Defendant, Whole Foods Market, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

**WHEREFORE**, Plaintiff, Ana Brea, demands judgment for damages against Defendant, Whole Foods Market, together with interest, costs of suit and attorney's fees.

**FOURTH COUNT**

1. Plaintiff, Ana Brea, repeats each and every allegation of the First through Third Counts of the Complaint as if set forth at length herein.

2. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, John Does 2-10, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

4. On or about the same time and place, the Defendant, John Does 2-10, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, striking the plaintiff, and causing her to fall.

5. As a direct and proximate result of the negligence of the Defendant, John Does 2-10, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

WHEREFORE, Plaintiff, Ana Brea, demands judgment for damages against Defendant, John Does 2-10, together with interest, costs of suit and attorney's fees.

#### FIFTH COUNT

Plaintiff, Marjorie Wilson, repeats each and every allegation of the First through Fourth Counts of the Complaint as if set forth at length herein.

1. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

2. On or about the same time and place, the Defendant, ABC Inc. 1-10, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, ABC Inc. 1-10, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, striking the plaintiff, which in turn caused the Plaintiff to fall.

4. As a direct and proximate result of the negligence of the Defendant, ABC Inc. 1-10, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

WHEREFORE, Plaintiff, Ana Brea, demands judgment for damages against Defendant, ABC Inc. 1-10, together with interest, costs of suit and attorney's fees.

#### SIXTH COUNT

Plaintiff, Ana Brea, repeats each and every allegation of the First through Fifth Counts of the Complaint as if set forth at length herein.

1. On or about October 4, 2020, the Plaintiff, Ana Brea, was a business invitee at the location known as Whole Foods Market, 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

2. On or about the same time and place, the Defendant, XYZ Co. 1-10, owned and/or operated and/or managed and/or maintained and/or was charged with the duty of care to the aforesaid premises, located at 300 Bergen Town Center, in the Borough of Paramus, County of Bergen, and State of New Jersey.

3. On or about the same time and place, the Defendant, XYZ Co. 1-10, negligently and carelessly owned and/or operated and/or managed and/or maintained and/or discharged their duty of care to the aforesaid premises, by allowing a dangerous condition to exist, namely an employee pushing a trolley with boxes, which in turn struck the plaintiff and caused the Plaintiff to fall.

4. As a direct and proximate result of the negligence of the Defendant, XYZ Co. 1-10, as aforesaid, the Plaintiff, Ana Brea, sustained severe and permanent injuries, endured and will endure great pain and suffering, has expended and will continue to expend great sums of money in order to cure her injuries, and has suffered a loss of income.

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WHEREFORE, Plaintiff, Ana Brea, demands judgment for damages against Defendant, XYZ Co. 1-10, together with interest, costs of suit and attorney's fees.

SEVENTH COUNT

1. The Plaintiff, Ana Brea, repeats each and every allegation of the First through Sixth Counts of the Complaint as set forth at length herein.

2. On or about October 4, 2020, the Plaintiff, Jorge Ricardo, was and is the lawful spouse of Plaintiff, Ana Brea.

3. As a direct and proximate result of the negligence of the Defendants as aforesaid, the Plaintiff, Jorge Ricardo, has lost the care, comfort, companionship and consortium of his spouse, the Plaintiff, Lina Sanchez.

WHEREFORE, Plaintiff, Ramon Mosquera, demands judgment for damages against the Defendants, together with interest, costs of suit and attorney's fees.

PETER N. DAVIS & ASSOCIATES  
Attorneys for Plaintiffs

BY:

  
NICHOLAS BARONE, ESQ.

DATED: March 8, 2022

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**JURY DEMAND**

Plaintiff hereby demand a trial by jury as to all issues so triable.

**DESIGNATION OF TRIAL COUNSEL**

The undersigned hereby designates NICHOLAS BARONE, ESQ. as trial counsel in the above captioned action.

**CERTIFICATION PURSUANT TO R.4-5-1**

The undersigned attorney for plaintiff(s) hereby certify as follows:

1. The within action is not the subject of any other action pending in any court or a pending arbitration proceeding.
2. No other action or arbitration proceeding is contemplated.
3. There are no other parties known to me who should be joined in this action.
4. I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

PETER N. DAVIS & ASSOCIATES  
Attorneys for Plaintiffs

BY:

  
NICHOLAS BARONE, ESQ.

DATED: March 8, 2022

**PETER N. DAVIS & ASSOCIATES**  
100 Hamilton Plaza, Suite 420  
Paterson, New Jersey 07505  
(973) 279-7246  
Attorney for Plaintiffs  
Our File No.: 207525

**ANA BREA and JORGE RICARDO,**

Plaintiff,

vs.

**WHOLE FOODS MARKET, JOHN  
DOE, JOHN DOES 2-10, ABC INC.  
1-10 and XYZ CO. 1-10,**

Defendants.

**SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION: BERGEN COUNTY**

Docket No: BER-L-1373-22

*Civil Action*

**SUMMONS**

**FROM THE STATE OF NEW JERSEY  
TO THE DEFENDANT(S) NAMED ABOVE:**

**WHOLE FOODS MARKET**

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you receive this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the clerk of the Superior Court, Hughes Justice Complex, CN-971, Trenton, NJ 08625. A filing fee\* payable to the Clerk of the Superior Court and a completed Case Information Statement (available for the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgment against you for the relief plaintiff demands, plus interest and costs of suit. If judgment is entered against you, the sheriff may seize your money, wages or property to pay all or part of the judgment.

If you cannot afford an attorney, you may call the Legal Services Office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.

Dated: March 9, 2022

/s/ MICHELLE SMITH

MICHELLE SMITH, Superior Court Clerk

Defendant to be served:  
Address for Service:

**WHOLE FOODS MARKET  
300 Bergen Town Center  
Paramus, NJ 07652**

\*\$135.00 for CHANCERY DIVISION CASES OR \$135.00 FOR LAW DIVISION CASES

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## Civil Case Information Statement

Case Details: BERGEN Civil Part Docket# L-001373-22

Case Caption: BREA ANA VS WHOLE FOODS MARKET

Case Type: PERSONAL INJURY

Case Initiation Date: 03/09/2022

Document Type: Complaint with Jury Demand

Attorney Name: NICHOLAS BARONE

Jury Demand: YES - 6 JURORS

Firm Name: PETER N. DAVIS & ASSOCIATES

Is this a professional malpractice case? NO

Address: 100 HAMILTON PLAZA SUITE 420

Related cases pending: NO

PATERSON NJ 07505

If yes, list docket numbers:

Phone: 9732797246

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Name of Party: PLAINTIFF : Brea, Ana

Name of Defendant's Primary Insurance Company

Are sexual abuse claims alleged by: Ana Brea? NO

(if known): GALLAGHER BASSETT

Are sexual abuse claims alleged by: Jorge Ricardo? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO Title 59? NO Consumer Fraud? NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b)

03/09/2022

Dated

/s/ NICHOLAS BARONE

Signed